IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13/09/2004

CORAM:

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

WRIT PETITION No.42639 of 2002
and
WP.No.43640 OF 2002

Vinayak Chemicals
rep. by its Partner Ajay Goenka
Chennai-1. .. Petitioner

-Vs-

1. State of Tamilnadu rep. by its
Secretary to Government,
Revenue Department,
Fort St. George, Chennai-9.

2. Secretary to Government,
MIH2 (Industries) Department,
Fort St. George, Chennai-9.

3. Special Commissioner &
Commissioner of Land Administration,
Chepauk, Chennai-5.

4. The District Revenue Officer,
Trivellore District,
Trivellore.

5. The District Revenue Officer,
Aromatic complex, MRL.,
Saidapet, Chennai-15.

6. M/s.Jagadambal Carbon Dioxide
Pvt. Ltd., Ponneri-Ennore Road,
Manali, Chennai-68. .. Respondents

Writ Petitions filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus as stated therein.

For petitioner : Mr.H.Karthik Seshadri

For respondents 1-5 : Ms.V.Velumani, AGP.

For 6th respondent : Mr.T.V.ramanujam,S.C.
for Mr.T.V.Krishnamachari.

:ORDER

Both the above Writ Petitions have been filed by the petitioner, praying to issue a Writ of Mandamus directing the respondents 1 to 5 to assign/sell the lands situate in Survey Nos. 130/4 and 130/5 to an extent of 1.14 Hectares in Vaikkadu Village, Saidapet Taluk, Chennai to the petitioner for a consideration of Rs.2,76,176/- and to cancel any allotment/lease of the said lands in favour of the 6th respondent.

2. The case of the petitioner is that he is the owner of the Patta lands in Vaikkadu village, in Trivellore District measuring 1.31 acres comprised in Survey Nos. 131/6, 131/7, 131/9 and 131/10; that on the Western side abutting "Poramboke land" to the extent of 0.56 acres is located and still further on the West and on the rear of the Poramboke lands are the lands belonging to the petitioner as well as the partners of the petitioner; that on the Southern side of the above said land is the compound wall of the Madras Fertilisers Limited and on the Northern side are the lands belonging to the third parties; that access to the petitioner and the petitioners' partners' land from the Ponneri-Ennore Road would be only through the proamboke land and there is no other access to any public road for the said lands; that the petitioners and the partners had acquired this land several years earlier and were having access to their land only through the aforesaid Poramboke land.

3. The further case of the petitioner is that the Government by its notification dated 29.7.1992 has proposed to acquire the entire lands belonging to the petitioner and their partners for the benefit of the Madras Refineries Limited for its Aromatic Complex; that realising the importance of the industry carried on by the petitioner, the Government has allotted alternative lands to the petitioner in Survey No.130/4 and 130/5 by means of a G.O.Ms.No.563 (Industries), dated 26/1 0/1992 subject to the condition that the lands shall be used for carrying on wax related business; that subsequently, by a notification dated 2.8.1994, Government has withdrawn the Land Acquisition Proceedings thereby the lands belonging to the petitioner and its partners became available to them for their use.

4. The further case of the petitioner is that the petitioner by the letter dated 14.11.1996 has requested the Government to sell the lands in S.No.130/4 and 130/5 to him at cost, since there is no access or way from the Road to the lands belonging to the petitioner; that the D.R.O.(LA) Aromatic Complex after conducting an enquiry and after recording the petitioner's statement, by a letter dated 10.6.1999 has recommended to the Government to assign the said lands to the petitioner at the cost of Rs.2,75,796/-; that subsequently the same was referred to the DRO, Trivellore, who in turn has also recommended to the Government; that based on which, the Special Commissioner and Commissioner for Land Administration, by his letter dated 13.2.2001 had recommended to the Secretary to the Government, Revenue Department; that while so, the Government in its G.O.Ms.No.147 Revenue dated

1.4.2002 had granted a lease in respect of the lands comprised in Survey No.1 30/5 to the 6th respondent. In such circumstances, the petitioner has come forward to file the above Writ Petitions for the reliefs extracted supra.

5. Heard the learned counsel for the petitioner, the learned Additional Government Pleader (Writs) and the learned Senior Counsel appearing for the 6th respondent as well and perused the materials placed on record.

6. During arguments, the learned Additional Government Pleader(Writs) would submit that the land in question is a poramboke land and there is no assignment in favour of the petitioner; that the Government has made due publication dated 23.2.2000 in the respective Village about the lease of poromboke lands the lands in favour of the 6th respondent, but there was no objection either from the petitioner or from any other persons; that in the public auction the lands were leased out in favour of the the 6th respondent fixing the yearly rent of a sum of Rs.9,36,992/- and hence the petitioner has no locus standi to question the lease in favour of the 6th respondent since there is no assignment order in favour of the petitioner in respect of the said poromboke lands. On such arguments, she would pray to dismiss both the above writ petitions.

7. The learned Senior Counsel for the 6th respondent would submit that after due publication in the respective village, the poromboke lands comprised in S.No.135/5 belonging to the Government have been leased out to the 6th respondent for an yearly rent of Rs.9,36,992/- and he is now running a factory in the said lands by putting up fence on all sides; that though the market value of the said land is Rs.66,9 2,800/-, the petitioner offers to purchase the said lands only for a sum of Rs.2,76,176/- which is very meagre even comparing with the yearly rent payable by the 6th respondent viz. Rs.9,36,882/-; that since there is no assignment in favour of the petitioner respect of the said lands, the petitioner has no locus standi to question the lease in favour of the 6th respondent; that the writ above petitions do not merit acceptance and hence he would pray for dismissal of both the above writ petitions.

8. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, this Court is able to assess that the Government by its notification dated 29.7.1992 has proposed to acquire the entire lands belonging to the petitioner and their partners for the benefit of the Madras Refineries Limited for its Aromatic Complex and at that time the Government has allotted alternative lands to the petitioner in Survey No.130 /4 and 130/5 by means of a G.O.Ms.No.563 (Industries), dated 26/10/19 92. But, subsequently, by a notification dated 2.8.1994, Government has withdrawn the Land Acquisition Proceedings thereby the lands belonging to the petitioner and its partners became available to them for their use. Thereafter, the petitioner by the letter dated 14.11.1996 has requested the Government to sell the lands in S.No.130/4 and 13 0/5 to him at cost, since there is no access or way from the Road to the lands belonging to the petitioner, pursuant to which, the D.R.O.(LA) Aromatic Complex after conducting an enquiry and after recording the petitioner's statement, by a letter dated 10.6.1999 has recommended to the

Government to assign the said lands to the petitioner at the cost of Rs.2,75,796/- and the same was referred to the DRO, Trivellore, who in turn has also recommended to the Government and based on which, the Special Commissioner and Commissioner for Land Administration, by his letter dated 13.2.2001 had recommended to the Secretary to the Government, Revenue Department. In the mean time, after due publication in the respective village, the Government by G.O.Ms.No.147 Revenue dated 1.4.2002 has granted a lease in respect of the lands comprised in Survey No.130/5 to the 6th respondent.

9. In the above facts and circumstances of the case, this Court is further able to assess that since the proposed acquisition of petitioner's land by the Government was subsequently withdrawn by the Government automatically, the allotment of poromboke lands to the petitioner as alternative to that acquisition goes back to its original position and that there is no assignment in favour of the petitioner, in respect of the said poromboke lands. Further, it comes to be known from the arguments of the learned Additional Government Pleader (Writs), due publication was made in the respective village at the time of leasing out the lands in favour of the 6th respondent and that there is no objection either from the petitioner or from any one in respect of the same. If the petitioner is aggrieved by the act of the Government in leasing out the said poromboke lands, immediately, he could have objected to the same. Since there is no such objection has been offered by the petitioner for leasing out the poromboke lands in favour of the 6th respondent, now, belatedly, he has no right to question the same and hence, this Court is of the view that the above writ petitions do not merit acceptance and they are liable to dismissed and hence the following order:-

V.KANAGARAJ,J

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In result,

(i) for the forgoing reasons assigned, both the above writ petitions do not merit acceptance and are dismissed as such;

(ii) however, in the circumstance of the case, there will be no order as to costs.

Index :Yes

Internet:Yes

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To

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